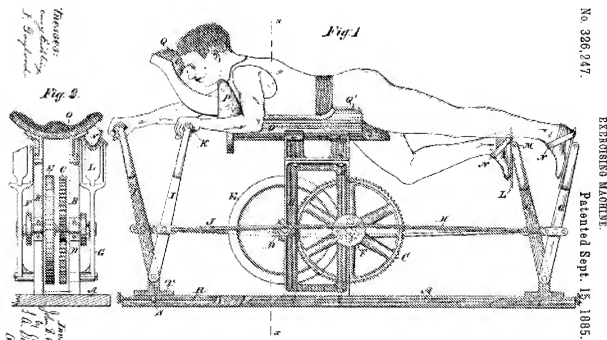


Remarks and Arguments

A. Root Does Not Contain All Of The Elements Of The Claims; The Root Reference Has Foot Pedals That Are Oriented Vertically, Not Horizontally As Claimed

The Examiner has cited/applied this reference as anticipating all of the pending claims 10-21, 23 and 36 in this application.



All of the independent claims as amended call for an apparatus having a pair of left and right foot pedals each having a foot sole receiving surface that is horizontally oriented for supporting the user standing vertically upright, the foot pedals being mounted for movement in a back and forth direction along an arcuate path between forwardmost upward horizontal and rearwardmost downward horizontal positions.

B. Root Further Does Not Have All Of the Elements Of The Claims Because Root's Foot Sole Receiving Surfaces/Pedals Do Not Move Between Forwardmost Upward Horizontal Or Rearwardmost Downward Horizontal Positions

Equally importantly, as shown in the figure above, the foot plates L in the Root reference do not move between forwardmost upward horizontal and rearwardmost downward horizontal positions. Purposely, both the left and right foot plates L in Root move through a circular arc having a peak upward position "HM" that is in the *middle* of forwardmost and backwardmost path of travel of the foot plates L as shown above. This midpoint position HM of the foot plates L is a distance "D" *higher than* the height of both the forwardmost position "HF" and the rearwardmost position "HR" of the foot plates L as shown above. In fact, foot plates L travel between the same downward position in both the forwardmost HF and rearwardmost HR positions. Thus Root's apparatus clearly does not anticipate the present invention in any rationally arguable way.

CONCLUSION

Reconsideration of the present application and early and favorable action is respectfully requested. If the examiner believes that a teleconference would expedite prosecution of the present application, the examiner is invited to call the Applicant's undersigned attorney at the Examiner's earliest convenience.

Any amendments, withdrawal or cancellation of claims made herein is made without prejudice and is not an admission that said withdrawn, canceled or amended subject matter is not patentable. Applicant reserves the right to pursue said withdrawn, canceled or amended subject matter in one or more continuation or divisional applications.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account **02-3038**, under **C016-7080US5**.

Respectfully submitted

/M. Lawrence Oliverio/

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